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12 **UNITED STATES DISTRICT COURT**

13 **DISTRICT OF NEVADA**

14 RICK LOVELIEN and STEVEN STEWART,)
15 v.) Case No: 2:18-cv-02110-MMD-CWH
16 THE UNITED STATES OF AMERICA,)
17 DANIEL BOGDEN, STEVEN W. MYHRE,)
18 DANIEL SCHIESS, NADIA JANJUA)
19 AHMED, NEIL KORNZE, DAN P. LOVE,)
20 JAMES COMEY, JOEL WILLIS, FORMER)
21 SHERIFF DOUG GILLEPSIE, SHERIFF)
22 JOE LOMBARDO, BUREAU OF LAND)
23 MANAGEMENT, FEDERAL BUREAU OF)
24 INVESTIGATION, CLARK COUNTY)
25 SHERIFF'S DEPARTMENT, and DOES 1-)
26 100, inclusive,)
27 Defendants.)
28

1) **UNOPPOSED MOTION TO EXTEND
2 TIME TO FILE A RESPONSE
3 (Third Request)**

4 The United States of America moves to extend the time to respond to the Complaint.

5 This is the third motion to extend the time to respond to the Complaint. This case was initially
6 filed in the United States District Court for the District of Columbia. That court extended the
7 Government's time to respond to the Complaint until 30 days after it ruled on the then-pending
8 motion to transfer to this Court. The United States then sought a second extension to allow it to
9 complete the process for reviewing the requests for Department of Justice representation made
10 by the individual federal defendants, and because undersigned counsel was new to the case.

11 This Court granted that motion on November 8, 2018. (ECF 19). The United States now seeks
12 an additional 30 days, until January 12, 2018, to respond to the Complaint, and states as
13 follows:

1 1. Because the Complaint sues federal employees in their individual capacities, they may
2 be entitled to representation by the Department of Justice pursuant to 28 C.F.R. § 50.15. Under
3 Department of Justice regulations:

4 [A] federal employee . . . may be provided representation in civil . . . proceedings
5 in which he is sued . . . when the actions for which representation is requested
6 reasonably appear to have been performed within the scope of employment and
the Attorney General or his designee determines that providing representation
would otherwise be in the interest of the United States.

7 28 C.F.R. § 50.15(a). An employee must first submit a written request for representation to his
8 immediate supervisor. 28 C.F.R. § 50.15(a)(1). The employing agency must then submit a
9 statement to the Department of Justice “containing its findings as to whether the employee was
10 acting within the scope of his employment and its recommendation for or against providing
11 representation,” and “should be accompanied by all available factual information.” *Id.* The
12 Department of Justice must then “determine whether the employee’s actions reasonably appear
13 to have been performed within the scope of his employment and whether providing
14 representation would be in the interest of the United States.” 28 C.F.R. § 50.15(a)(2).

15 2. Some requests for representation take longer to process based, in part, on the complexity
16 of the case and the number of federal employees sued. The underlying criminal case giving rise
17 to this civil suit has over 3,300 docket entries, and eight current and former federal employees
18 have been sued: four from the United States Attorney’s Office for the District of Nevada, two
19 from the Bureau of Land Management, and two from the Federal Bureau of Investigation.

20 3. Undersigned counsel is not involved in the representation determination and had hoped
21 the first 30-day extension would be sufficient time for the Department of Justice to process the
22 requests for representation, but has since been informed that additional time is necessary.

23 4. Until the Department of Justice authorizes undersigned counsel to represent any of the
24 named federal employees in their individual capacities, he may only act to seek enlargements of
25 time so that their interests and defenses are not compromised.

26 5. Undersigned counsel has conferred with those Department of Justice attorneys involved
27 in the representation process and has confirmed that 30 additional days should be sufficient time
28

1 to both complete the representation process and allow time for undersigned counsel to prepare a
2 response to the complaint.

3 For these reasons and with just cause shown, the United States requests that this Court
4 extend the deadline to respond to the complaint for those federal defendants who have been
5 served to January 12, 2019. Counsel for the Plaintiffs does not oppose this motion.

6 Respectfully submitted this 30th day of November 2018.

7 JOSEPH H. HUNT
8 Assistant Attorney General, Civil Division

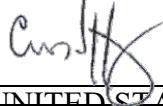
9 C. SALVATORE D'ALESSIO, JR.
10 Acting Director
Torts Branch, Civil Division

11 RICHARD MONTAGUE
12 Senior Trial Counsel
Torts Branch, Civil Division

13 s/ Siegmund F. Fuchs
14 SIEGMUND F. FUCHS
Trial Attorney
Torts Branch, Civil Division

15 Attorneys for the United States

16
17 DATED: December 3, 2018

18 IT IS SO ORDERED:
19 
20 ~~UNITED STATES DISTRICT JUDGE~~
21 UNITED STATES MAGISTRATE JUDGE

PROOF OF SERVICE

I, Siegmund F. Fuchs, certify that the following individual was served with a copy of the
UNOPPOSED MOTION TO EXTEND TIME on the date and by the identified method of
service below:

ELECTRONIC CASE FILING AND ELECTRONIC MAIL:

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Dated this 30th day of November 2018.

/s/ Siegmund F. Fuchs
SIEGMUND F. FUCHS
Trial Attorney